

BEFORE THE

**Federal Communications Commission**

WASHINGTON, D.C. 20554

In the Matter of:

Modification of Section 90.20(c) of the  
Commission's Rules to Permit Use of Any  
Certified Public Safety Frequency  
Coordinator for Channels Below 470 MHz

RM-10077

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OFFICE OF THE SECRETARY

To: Chief, Wireless Telecommunications Bureau

**COMMENTS OF  
THE INTERNATIONAL ASSOCIATION OF FIRE CHIEFS, INC.  
AND  
INTERNATIONAL MUNICIPAL SIGNAL ASSOCIATION**

The International Municipal Signal Association (IMSA) and The International Association of Fire Chiefs, Inc. (IAFC), respectfully submit their comments in response to the petition for rulemaking filed by the Association of Public-Safety Communications Officers-International, Inc. (APCO), seeking to modify Section 90.20(c) of the Commission's rules to authorize all of the certified public safety frequency coordinators (other than the Special Emergency coordinator) to coordinate all of the public safety frequency below 470 MHz.<sup>1</sup>

**I. STATEMENT OF INTEREST**

IAFC is a voluntary, professional membership society. Its membership, comprised of approximately 12,000 senior Fire Service officials, is dedicated to the protection of life and property throughout the United States and abroad. IAFC is the major national professional association representing the interests of senior management in the Fire Service. The Fire Service is the largest provider of emergency response medical service in the United States.

<sup>1</sup> Public Notice Report No. 2469 (Mar. 1, 2001).

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IMSA is a non-profit organization dedicated to the development and use of electrical signaling and communications systems in the furtherance of public safety. IMSA members, numbering almost 8000, include representatives of federal, state, county, city, township and borough governmental bodies, and representatives of governmental bodies from foreign nations. Organized in 1896, IMSA is the oldest organization in the world dedicated to activities pertaining to electrical engineering, including the Public Safety use of radio technology.

## II. COMMENTS

APCO proposes that the Commission open frequency coordination on all of the discrete, functional public safety frequencies (*i.e.*, those assigned prior to “refarming” solely to the Emergency Medical, Fire, Forestry, Highway and Police Radio Services) to each of the coordinators recognized to coordinate for those functions. APCO argues that the discrete, functional frequencies are shared, and that it currently coordinates for various types of public safety agencies (on channels which by their terms are shared by the various public safety eligible entities). IMSA/IAFC respectfully submit that these arguments do not vitiate the Commission’s policy to assign single frequency coordination responsibility for the discrete, functional public safety channels.<sup>2</sup>

There is a long and distinguished history of the Commission allocating separate radio channels to each of the discrete public safety functions, and assigning the frequency coordination responsibility for those channels to the entity most representative of that user community. This was affirmed in 1986 when the Commission issued its Report and Order in *Frequency Coordination in the Private Land Mobile Radio Services* (PR Doc. No. 83-737), 103 F.C.C.2d 1093 (1986) (“*Frequency Coordination*”). This approach

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<sup>2</sup> At note 1 of its petition APCO refers to the pending requests of IMSA/IAFC and also of the American Association of State Highway and Transportation Officials for recognition to coordinate the public safety pool channels in the 800 MHz band. APCO suggests that the Commission consolidate those requests with the instant petition for rulemaking. IAFC/IMSA respectfully disagree. The two matters are completely separate. The 800 MHz frequencies are pooled channels, open for use by all eligible public safety parties. The APCO petition, in contrast, deals with frequencies which have been, and are, primarily assigned to a single public safety function. Moreover, APCO tacitly opposed the requests to open the 800 MHz public safety pool to competitive coordination, an action directly in contrast to the action sought in the instant petition. The two actions are distinct, and should be handled independently.

was again endorsed by the Commission in the land mobile “refarming” proceeding, *Replacement of Part 90 by Part 88 to Revise the Private Land Mobile Radio Service (“Refarming”), Second Report and Order (2nd R&O)*, 12 FCC Rcd 14307 (1997). In the latter proceeding, while maintaining the sole coordination function for the public safety frequencies allocated on a discrete functional basis, the Commission provided for competitive coordination for shared public safety frequencies. *Refarming, 2nd R&O* at 14327-328. The Commission applied the same policy of competitive coordination for shared frequencies at 700 MHz. *Development of Operational, Technical and Spectrum Requirements for Meeting Federal, State and Local Public Safety Agency Communications Requirements through the Year 2010* (WT Doc. No. 96-86) (“*Public Safety 700 MHz Band*”), 14 FCC Rcd 152, 201 (1998). APCO now asserts that the time is ripe for reexamination of the Commission’s policy to entrust responsibility for frequency coordination for the function- specific public safety channels to those entities which are most representative of those public safety services.

Evaluation of the APCO proposal must be conducted in the context of the Commission’s rationale for retention of the discrete public safety coordination functions for the individual public safety services. In *Refarming, 2nd R&O*, the Commission stated as follows:

39. As we indicated above, the integrity of the public safety services must be maintained without fail. . . . Also, preserving the jurisdiction of the individual coordinators over current spectrum, while expanding access to Local Government frequencies, will help \_\_ensure consistency with local, regional and state public safety communications plans.<sup>96</sup>

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<sup>96</sup> This issue could be revisited in the future if a more integrated coordination system could be designed that would not impair public safety interests. *Each Public Safety frequency coordinator must be knowledgeable about the specific plans that have been established in the radio service in which they coordinate. They are not necessarily proficient in the intricacies of the plans established in the other Public Safety Radio Services.* Therefore, under our approach toward consolidation, a fire company will be unable to access a police channel without first coordinating through APCO, the certified frequency coordinator for the Police Radio Service. This ensures that the fire company will not unwittingly jeopardize police safety by accessing the channel that has been allocated for specific Police uses under a regional plan. See 47 C.F.R. §90.16. (Emphasis added.)

*Refarming, 2<sup>nd</sup> R&O* at 14328.

The Commission further noted that there is a public safety aspect to operations in the Railroad, Power and Petroleum Radio Services where the user communities employ radio “as a critical tool for responding to emergencies that could impact hundreds or even thousands of people. Although the primary function of these organizations is not necessarily to provide safety services, the nature of their day-to-day operations provides little or no margin for error and in emergencies they can take on an almost quasi-public safety function.” *Id.* at 14329. Consequently, the Commission retained the same provision for the Railroad, Power and Petroleum Radio Services as it retained for the Public Safety services, stating that “using coordinators that are knowledgeable with such special communication needs is the best way to protect these operations, which involve safety-related communications, and outweighs any potential benefits that may be gained through a competitive frequency coordination process.” *Id.* at 14330.

Only two years ago, in addressing requests to reconsider *Refarming, 2nd R&O*, the Commission reaffirmed the principles and policies it adopted with regard to protecting critical communications functions through assigning coordination responsibility to the service-representative frequency coordinator(s). The issue arose in the context of the coordination responsibility for certain frequencies shared by the former Petroleum Radio Service with other users. In *Refarming, 2nd R&O*, those shared frequencies had been opened for competitive coordination. Having had almost two years of experience, the Commission acknowledged that it was:

. . . persuaded that API has raised legitimate safety issues concerning the frequencies that were assigned to the former Petroleum Radio Service on a shared basis prior to consolidation. The Commission also believes that comparable treatment should be afforded to frequencies that were previously assigned on a shared basis to the former Power Radio Service and Railroad Radio Service. Accordingly, the Commission is now requiring the frequencies that were either assigned on a primary basis, in the First R&O, to any of these former three services (*i.e.* the Petroleum, Power and Railroad services) or that were shared, on a primary basis, prior to the first R&O, between one of these three services and another radio service, must be coordinated by API, UTC or AAR, as appropriate.

*Refarming, Second Memorandum Opinion and Order (2nd MO&O)*, 14 FCC Rcd 8642, 8647-48 (1999).

Additionally, the Commission corrected the frequency table with regard to an “inadvertent error” in

designating certain of the Emergency Medical Radio Service (EMRS) frequencies for coordination by the several public safety frequency coordinators, rather than by the recognized EMRS coordinator, consistent with the Commission's policy to preserve single coordinator responsibility for discrete public safety communications channels. *Id.* at 8667.<sup>3</sup>

Subsequently, in responding to petitions for reconsideration of *Refarming, 2nd MO&O*, in late December 2000 the Commission again reaffirmed the policy concerning protection of function-specific frequencies and the role of the representative service coordinator. In that Order, the Commission adopted a contour protection requirement for incumbents. Prior to a coordinator who is not responsible for the original radio service issuing a coordination for a proposed facility which overlaps an incumbent's service contour, that coordinator must secure the written concurrence of either the industry-specific coordinator or the affected licensee. *Refarming, Fifth Memorandum Opinion and Order* at ¶7 (Dec. 29, 2000). The APCO petition flies in the face of the Commission's actions and policies regarding competitive coordination, as reflected in the *Refarming* proceeding.<sup>4</sup>

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<sup>3</sup> Responsive to the IAFC/IMSA Petition For Clarification to correct the error with regard to the coordinator responsibility for the EMRS, APCO submitted an opposition, seeking opportunistically to take advantage of the Commission's apparent error. The Commission thought so little of APCO's arguments of why the policy to preserve the signal coordinator status for the frequencies assigned on a functionally specific basis should not be applied to the EMRS that, while noting the APCO opposition, it found no need to discuss the arguments raised. Instead the Commission treated the matter as a correction on the Commission's own initiative. *Id.* at ¶8667.

<sup>4</sup> APCO neither mentions, nor suggests use of, the process adopted by the Commission for the Petroleum and other industrial services in *Refarming, Fifth Memorandum Opinion and Order*. In addition to APCO's petition being inconsistent with the Commission's action taken less than six (6) weeks earlier, the contour protection approach likely would require the involvement of the service-specific coordinators in virtually every coordination action in all metropolitan areas. Given decades of use of the VHF and UHF channels, it will be difficult -- if not impossible -- to find channels not currently assigned and in use. Functionally, the concurrence process adopted by the Commission for the industrial channels would be no different than the procedure currently followed. Moreover, this approval process may not protect mobile-only or itinerant use channels, such as those used in the Fire Service for fireground communications, since there may be no base or fixed station from which to calculate an interference contour.

APCO fails, in its petition, to address the policies underlying the Commission's retention of sole coordinator responsibility.<sup>5</sup> Instead APCO asserts "there are no longer substantial differences between coordinating channels for the various public safety services that cannot be addressed by a qualified and broadly representative public safety frequency coordinator . . . [and that it] is well aware of the specific needs of different public safety licensees . . ." Petition at 3. APCO fails to address, however, the Commission's requirement that the coordinators "must be knowledgeable about the specific plans that have been established" in each of the discrete public safety services. *Refarming 2nd R&O at 14328, n. 96.* Coordinating shared frequencies for applicants is not the same as coordinating function-specific frequencies in a block allocation which has a long history and well established practices. For example, the Fire Service has designated frequencies for mutual aid, for fireground accountability, and for hazardous materials response; and local or regional plans exist in some areas to govern the use of certain frequencies. Similarly, in the Emergency Medical Radio Service frequency use must be consistent with the local planning process. 47 C.F.R. §90(a)(1)(iii).<sup>6</sup> As to APCO's claim of being "well aware of the specific needs of different public safety licensees," Petition at 3, it was only within the last several weeks that the IAFC\IMSA frequency coordinator *again* had to explain to an APCO coordinator the process required to qualify for an Emergency Medical frequency. Contrary to its current position, APCO recently told the Commission: "APCO is sensitive to the special role of the other coordinators and their special knowledge of each of the public services . . ." <sup>7</sup>

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<sup>5</sup> Indeed, APCO's petition for rulemaking makes it appear that it was a disinterested spectator in the 1997 decision to retain single coordinator responsibility. ("While the Commission combined the public safety services in 1997, it chose to continue to restrict applicants' (sic) and their choice of a public safety frequency coordinator." Petition at 2.) Rather, APCO was a strong proponent of retaining the block frequency allocations and the individual public safety coordinator responsibility in the public safety bands below 470 MHz. *Refarming, 2nd R&O at 14326.*

<sup>6</sup> Likely, there are similar service-specific functions which have been established, by custom if not regulation, on the frequencies designated for forestry, highway and police use.

<sup>7</sup> Comments of the Association of Public-Safety Communications Officials International (APCO) in Response to Second Notice of Proposed Rulemaking, WT Doc. No. 96-96, at 9 (Dec. 24, 1997) ("APCO Doc. 96-86 Comments").

APCO also cites to the fact that “many if not most public safety channels below 470 MHz now include a broad mix of licensees and users . . .” Petition at 3.<sup>8</sup> The fact that there is sharing of the function-specific frequencies demonstrates that the current system works, not that the current system has outlived its usefulness. Those sharing requests are approved, and frequencies designated, with full consideration of the primary user community’s operations and plans for those channels. The fact that AASHTO has granted APCO requests to allow police departments to share “highway” frequencies does not signify that APCO has the knowledge required to coordinate all “highway” frequencies without degradation to highway users.

APCO offers only superficial comment regarding the standard adopted by the Commission for re-examination of the policy to preserve sole coordinator responsibility for function-specific public safety frequencies. The Commission, as quoted above, referred to revisiting the issue “if a more integrated coordination system could be designed that would not impair public safety interests.” *Refarming, 2nd R&O* at 14328. APCO cites to the experience in coordinating the “PX” channels in a competitive environment. Again, those are shared channels; and as shared channels performance of the coordination function does not require a particular knowledge of a specific public safety user community’s plans and history, whereas such plans do exist on the function-specific channels. With regard to the notification procedures, it is important to recall that even before *Refarming* the public safety services shared frequencies. *Refarming* merely

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<sup>8</sup> In a footnote, APCO states: “Presumably, the Commission did not intend to allow specific service coordinators to ‘warehouse’ or otherwise reserve channels for particular categories of public safety users. Such result would run counter to the purpose of the Public Safety Pool.” Petition at 3, n.7. For APCO to imply that other coordinators seek to warehouse frequencies not only is contrary to its petition wherein APCO relies on the substantial sharing, particularly on highway and forestry channels, but moreover is hypocritical. The channels least subject to sharing are those formerly assigned to the Police Radio Service, for which APCO bears sole coordination responsibility. APCO has no compunction about asking another coordinator to share a frequency with less than a 25 mile separation (in some cases substantially less), wherein it has refused to coordinate sharing of police frequencies where there is a substantially greater mileage separation between the proposed use and the police licensee’s base station. Further in the context of warehousing channels, APCO assigned the 453/458 MHz shared frequencies to the Kentucky state police notwithstanding that the 460 MHz police frequencies were lightly utilized; and it continued to protect that assignment even after repeated monitoring showed no use of those channels, leading to complaints to the Commission. And within the last several days, APCO requested sharing of a Fire frequency in northwest Nebraska, notwithstanding there were 39 police and public safety pool channels with 75+ miles clearance, of which 26 were clear of co-channel use for 100+ miles.

expanded the joint coordination responsibility for the shared frequencies, by adding the frequencies assigned to the Local Government Radio Service to the frequencies which the Fire, Forestry, Highway and Police Radio services already were sharing. Consequently, the sharing of information is not a new circumstance, arising since or consequential to the *Refarming* decision.

The Commission's policy requiring the recognized frequency coordinator for the function-specific public safety frequencies to be representative of the eligible user community warrants further comment. APCO claims that its members "are involved in the management and operation of communications systems for all types of state and local government public safety agencies . . ." Petition at 1. Being "involved," and having some members from fire, EMS and public safety agencies other than law enforcement, however, is not the end of the inquiry. APCO's membership is comprised of individuals involved in the management, design, and operation of public safety communications systems.<sup>9</sup> While dispatchers and technicians are critical in the day-to-day operations of public safety agencies, dispatchers and technicians are not necessarily representative of public safety agencies from a managerial perspective, including the context of spectrum management policies. By contrast, IAFC represents senior management in the Fire Service. It is the Fire Chiefs who are responsible for assuring that their departments can deliver the fire suppression, fire prevention and emergency medical services upon which the public relies. Consequently, IAFC has maintained an active role in communications policies and spectrum management for many decades. It is for this reason that the Commission has entrusted IAFC, together with its communications partner IMSA, with the responsibility for management of the frequencies discretely assigned to the Fire and Emergency Medical Radio Services since the Commission's first reliance upon private sector coordinators.<sup>10</sup>

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<sup>9</sup> APCO Doc. 96-86 Comments at 1; *see also Frequency Coordination* at 1127.

<sup>10</sup> In *Frequency Coordination*, in rejecting the request of APCO to coordinate not only the Police Radio Service, but also the Fire, Highway Maintenance and Forestry Conservation Radio Services, taking note of the memberships of APCO and of IAFC, IMSA and of the associations seeking recognition to coordinate the Highway Maintenance and Forestry Conservation Radios Services, the Commission stated: "As we stated before, we believe representativeness should be given the greatest weight in choosing the certified coordinator. We believe these individual associations of users are more representative of the particular licensees in their service." *Id.* at 1129. The Commission went on to note that IAFC and IMSA have shown "particular sensitivity to special emergency needs," in the context of seeking and supporting the  
(continued)



There are two further reasons why the APCO request would constitute bad policy. First, competitive coordination on the function-specific public safety channels could result in corruption of the primary use of those channels. As applicants shop for channel assignments, there would be no frequency coordinator to protect the constituents of the function specific channels. Thus, rather than holding an insistent applicant to the power level and antenna height appropriate to the applicant's service area, APCO could assign a fire or highway specific channel, with little regard for the other users or policies governing that channel. Satisfying that applicant, regardless of the impact upon the dependent public safety service, will be critical to maintaining the goodwill necessary to promote the coordinator's services. As recognized by the Commission in *Refarming, 2nd MO&O, supra*, opening function-specific frequencies to competitive coordination well could adversely impact incumbent users. Second, this, in turn, inevitably will lead to increased complaints to the Commission, certainly from users and very likely from the function-affiliated coordinators who may seek to protect their historical constituencies from degradation of service. Both the Commission's staff and the frequency bands below 470 MHz already are sufficiently burdened; and the potential for disruption as a result of the APCO proposal would be detrimental to both.

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rescission of an expiration date for certain 450 MHz frequencies whereas APCO was in opposition, in order to secure reversion of the channels to exclusive Police Radio Service use. The Commission also observed that APCO disclaimed an interest in the non-emergency special emergency users. *Id.* at 1131. APCO further has sought to distinguish between governmental and non-governmental public safety agencies with regard to licensing eligibility (*e.g., Refarming*), notwithstanding that many fire and rescue agencies are operated by volunteer, and in some cases commercial, entities.

Moreover, without question, first and foremost APCO promotes law enforcement use, as evidenced by its protection of police channels as detailed at note 7, *supra*.

WHEREFORE, THE PREMISES CONSIDERED, the International Municipal Signal Association and The International Association of Fire Chiefs, Inc., respectfully urge the Federal Communications Commission to DENY the APCO petition for rulemaking.

Respectfully Submitted,

**The International Association of Fire Chiefs, Inc.  
and  
International Municipal Signal Association**

A handwritten signature in black ink, reading "Martin W. Bercovici". The signature is written in a cursive style with a large, stylized initial "M".

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April 2, 2001

## CERTIFICATE OF SERVICE

I, Carolina R. Moore, do hereby certify that on this 2<sup>nd</sup> day of April, 2001, I have caused a copy of the foregoing "COMMENTS OF THE INTERNATIONAL ASSOCIATION OF FIRE CHIEFS, INC. AND INTERNATIONAL MUNICIPAL SIGNAL ASSOCIATION" in RM-10077 to be served by first class mail, postage paid, and by hand as noted upon: .

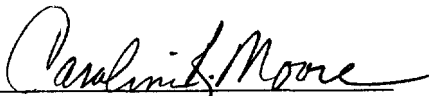
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